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United States General Accounting Office
Washington, DC 20548

October 18, 2000

The Honorable David Obey
Ranking Minority Member
Committee on Appropriations
House of Representatives

The Honorable Peter DeFazio
The Honorable Pete Stark
House of Representatives

Subject: Military Activities: Display of Equipment at the Former Philadelphia Naval Base in July 2000

At the request of Representatives Curt Weldon and Robert Brady, the Department of Defense (DOD) agreed to display military items for members of Congress at the former Philadelphia Naval Base¹ prior to the Republican National Convention in July 2000. At your request, we determined (1) the basis for DOD's decision to approve the request, including pertinent laws or regulations and any restrictions on the conduct of the display; (2) DOD's compliance with any restrictions imposed on the display; and (3) the estimated incremental cost of the display.²

To obtain information on DOD's decision to provide the display and restrictions on the display, we interviewed officials and reviewed documents in the Office of the Secretary of Defense, DOD's Office of the General Counsel, and the offices of the Assistant Secretaries of Defense for Legislative Affairs and for Public Affairs. To obtain information on the extent that the display met DOD's restrictions and estimated incremental costs, we interviewed officials, including several personnel present at the display, and obtained documents at organizations that participated in the display. These organizations included the office of the Assistant Secretary of Defense for Legislative Affairs; the headquarters offices of the four military services; the U.S. Coast Guard; the U.S. Atlantic Fleet; Willow Grove Naval Air Station and Joint Reserve Base; the Ship Systems Engineering Station at the former Philadelphia Naval Base; and offices of the Pennsylvania Army National Guard, Fort Indiantown

¹ In 1995, DOD closed the base—except for designated areas retained by the Navy—and later transferred the property to Philadelphia.

² Incremental costs exceed normal operating expenses. Therefore, the figures in this letter do not include personnel costs except for special active duty pay for reservists.

Gap, Pennsylvania. We also toured the site of the display. We did not independently verify the accuracy or completeness of cost data provided by the services. We performed our work during August and September 2000 in accordance with generally accepted government auditing standards.

RESULTS IN BRIEF

We are aware of no legal prohibition against the display of military equipment at the former Philadelphia Naval Base. DOD policy guidance for the current election year prohibits the armed forces' involvement in political events and instructs commanders to decline support to any event that could identify or associate the military with any partisan candidate or cause. Because the display provided an opportunity to educate Members of Congress, stemmed from a bipartisan request, and was physically separate from and not affiliated with the convention itself, the Secretary of Defense believed the display would not violate policy guidance. To minimize the potential for the display to be associated with partisan events, DOD limited it to 3 days and imposed certain restrictions, including that the display and service personnel would not be used for or in conjunction with any partisan or convention-related activities. The display opened on July 29, 2000, and closed before the convention began on the evening of July 31, 2000.

According to several servicemembers and a DOD official present at the display, the display was used solely to educate Members of Congress on military capabilities and readiness and did not violate any of DOD's restrictions. These individuals stated that no servicemember participated in any partisan or convention-related activities, nor did anyone ask servicemembers to engage in any such activities. We found no evidence to the contrary.

According to participating units, the incremental cost of the display was about \$609,203, including \$368,218 for the Army, \$102,420 for the Air Force, \$82,451 for the Navy, \$25,188 for the Marine Corps, \$23,726 for the National Guard, and \$7,200 for the Coast Guard. It was funded largely through operation and maintenance accounts and included travel-related expenses for personnel attending the display and transportation of equipment either through contract transportation or by the services directly.

BACKGROUND

In letters dated June 27, 2000, and July 7, 2000, Representatives Weldon and Brady requested that DOD display military equipment for about 90 Members of Congress scheduled to stay at a former naval base in Philadelphia during the week of the Republican National Convention. The representatives requested that the items be displayed from July 28 to August 3, 2000, and stressed that the equipment would not be used for any partisan activities. On the weekend before and during the week of the convention, members of Congress and their families stayed in housing located on city property within the base and attended various events held near the housing area.

The Secretary agreed to the request with certain restrictions and designated the Navy to coordinate the participation of the other military services. Each service, the Coast Guard, and the Pennsylvania Army National Guard displayed various items, including a tank, helicopters, munitions, and small boats. (Encl. I is a list of the items displayed.) The display was located on federal and city property adjacent to the congressional housing area—about 1 mile from the site of the Republican National Convention. The services and the Coast Guard operated the display from July 28 through July 31, 2000. The National Guard remained until August 4, 2000, primarily to be available in case of an incident during the convention.

About 266 active duty, reserve, and civilian personnel participated in the display, although not all were present for all 3 days. Each organization provided senior officers to oversee the service displays, military and civilian personnel to explain the purpose and capabilities of the equipment and to answer questions, and public and legislative affairs officers to handle press and legislative contacts. DOD also sent a legislative affairs officer to ensure that the display did not violate any of DOD's restrictions.

DOD'S DECISION TO DISPLAY EQUIPMENT IN PHILADELPHIA

DOD examined the legal and policy implications of providing a military display in Philadelphia around the time of the Republican National Convention. While DOD ultimately agreed to the request, it restricted the use of the display and activities of personnel participating in the display.

Legal and Policy Considerations

According to DOD officials, the Secretary requested legal advice from the Department's General Counsel regarding the display of equipment in Philadelphia. General Counsel officials said that they were aware of no law that would authorize or prohibit the provision of military equipment requested by the two representatives. We are aware of no legal prohibition against the display and find DOD's action to be legally sufficient.³

In the absence of a specific statute, an agency has general authority to engage in activities in support of its missions. Since an agency has a legitimate interest in communicating with the public and Congress regarding its functions, policies, and activities, it has authority to engage in informational, educational, or promotional activities.⁴ The Philadelphia military display falls within this category of allowable

³There are antilobbying restrictions contained in a criminal statute in 18 U.S.C. 1913 and section 8012 of the DOD Appropriations Act for FY 2000 (P.L. 106-65). Neither applies, as the criminal statute and section 8012 apply to indirect or "grass-roots" lobbying, not direct appeals to Congress by an agency. (See 60 Comp. Gen. 423 (1981)). Similarly, the restriction on the use of funds for publicity and propaganda appearing at section 8001 of the DOD Appropriations Act for FY 2000 is inapplicable as it does not prohibit DOD's legitimate informational activities (Comp. Gen. Decision B-223098, Oct. 10, 1986).

⁴ *Principles of Federal Appropriations Law*, 2nd ed., Vol. I (GAO/OGC-91-5) pp. 4-185.

activities. As an allowable activity, the services have the authority to expend appropriated funds to provide such a display.

Generally, DOD considers military displays to be part of its community relations efforts and has various guidelines that govern the activities military commanders may engage in. For example, DOD Directive 5410.18 provides that any military support and participation must not directly or indirectly endorse or appear to endorse any political organization. Also, in December 1999, DOD's public affairs office issued policy guidance to assist commanders and public affairs officers in handling requests for support during the 2000 election year. Among other things, this guidance notes that DOD does not engage in activities that could be interpreted as associated with any partisan political causes, issues, or candidates. It prohibits the armed forces' involvement in political events except to provide a joint armed forces color guard for opening ceremonies at the national conventions of parties that the Federal Election Commission formally recognizes. Commanders are instructed to decline requests for support to any event that could identify or associate the military with any partisan candidate or cause.

DOD officials stated that in light of this policy, the Secretary and others debated various factors such as the purpose of the display, the source of the request, and the potential for the display to be identified with a partisan candidate or cause. Because the display provided an opportunity to educate many Members of Congress at one place, the request was bipartisan, and the display would be physically separate from and not affiliated with the convention, the Secretary determined that the display would not violate DOD's policy guidance. DOD officials noted that they approve numerous requests each year to display equipment for the general purpose of educating others, including Members of Congress, about U.S. military capabilities. They also noted that the Secretary made it clear that DOD would provide a display around the time of the Democratic National Convention if it received a similar bipartisan request.

Restrictions on the Display

To minimize the potential for the display to be associated with partisan events, DOD limited the display to 3 days—it opened on July 29, 2000, and closed before the convention began on the evening of July 31, 2000. DOD also imposed certain restrictions on its use and the activities of participating servicemembers. Specifically, in a July 27, 2000, letter to Representatives Weldon and Brady, the Assistant Secretary of Defense for Legislative Affairs stipulated that

- display equipment would not be used for or in conjunction with any partisan or convention-related activities, including media events, fund-raising, press conferences, speeches, photo opportunities, and the like;
- the display would be open to any member of Congress on a nonpartisan basis; and

- any military personnel participating in the display must not be asked to engage in any activities that could be construed as political in nature or in support of the convention.

DOD also urged that the display be open to the general public for a portion of the time if feasible so that the public could view and learn about U.S. military capabilities. Finally, DOD issued written guidance that directed military personnel involved in the display to avoid any form of political activity. The naval officer in charge of the display conducted daily briefings to personnel participating in the display to remind them of the restrictions on the display and their activities.

COMPLIANCE WITH DOD'S RESTRICTIONS

According to several servicemembers and a DOD legislative affairs official present at the display of military equipment and items in Philadelphia, the display met DOD's restrictions. These individuals confirmed that the display was not used for political purposes such as media events, fund-raising, press conferences, speeches, or photo opportunities. They also stated that, to their knowledge, no servicemembers engaged in any partisan or convention-related activity, nor did anyone ask them to engage in any such activity. As a courtesy, servicemembers were authorized to eat at a nearby food tent that was available to congressional members and guests participating in activities in the city-owned area of the base. Servicemembers told us that no political activities occurred in their presence and that they did not attend any political events. For example, they did not attend a block party held on two streets within the congressional housing area or any fund-raising activities. We found no evidence to refute this information.

As required, the display was open to Members of Congress from both parties and their family members and guests. For security reasons, it was not open to the general public. Service personnel noted that they did not keep an official count of congressional members or other attendees. However, Navy officials estimated that about 35 Members of Congress and about 400 others viewed the display, including congressional family members and staff, about 125 firefighters that participated in events at the base, local officials, and eight members of the Russian Duma.

ESTIMATED INCREMENTAL COST OF THE DISPLAY

According to participating units, the incremental cost of the display was about \$609,203, including \$368,218 for the Army, \$102,420 for the Air Force, \$82,451 for the Navy, \$25,188 for the Marine Corps, \$23,726 for the National Guard, and \$7,200 for the Coast Guard. It was funded largely through operation and maintenance accounts and included travel-related expenses for personnel attending the display and transportation of equipment either through contract transportation or by the services directly. According to service personnel, the display did not adversely affect their ability to fund other operations or activities. They noted that the display was beneficial because it provided an opportunity to educate Members of Congress about military capabilities. Also, servicemembers had an opportunity to review military

ethics and become familiar with equipment used by the other services. Other than gaining additional flying and transportation experience and the opportunity to review equipment specifications and capabilities, they noted no other particular operational or training benefit.

AGENCY COMMENTS

In written comments on a draft of this report, DOD concurred with our findings. In oral comments, the U.S. Coast Guard also concurred.

We are sending copies of this report to the Secretaries of Defense, Transportation, the Army, the Navy, and the Air Force; the Commandant of the Marine Corps; and the Director, Office of Management and Budget. Copies will also be made available to other interested parties upon request.

If you or your staff have any questions concerning this report, please call me at (202) 512-3958. Major contributors to this letter were Richard McGeary, Stephanie May, and Sharon Pickup.

Carol R. Schuster

Carol R. Schuster, Director
Defense Capabilities and
Management

Enclosure

ITEMS DISPLAYED AT FORMER PHILADELPHIA NAVAL BASE IN JULY 2000

Organization	Item displayed
Army	<p>Information posters on modernization plans</p> <p>Future combat uniforms and equipment</p> <p>Unmanned aerial and ground vehicles</p> <p>Night vision systems</p> <p>Munitions</p> <p>Sensor system</p> <p>Portable cockpit of Comanche helicopter</p> <p>Theater High Altitude Air Defense System</p> <p>AH-64 Apache helicopter</p> <p>HUMRAAM Air Defense System</p> <p>Future combat systems</p> <p>--Digitization</p> <p>--Telemaintenance</p> <p>Hybrid electric vehicle</p> <p>C4ISR technologies</p> <p>SCUD Missile System</p> <p>Team Redstone</p> <p>PEO tactical missile</p> <p>Cinema van</p>
Air Force	<p>Predator Unmanned Aerial Vehicle</p> <p>Information posters on modernization plans</p> <p>Aerospace superiority</p> <p>Global attack</p> <p>Precision engagement</p> <p>Global mobility</p> <p>Information superiority</p> <p>Balanced approach</p> <p>Munitions</p>
Marine Corps	<p>V-22 Osprey aircraft</p> <p>Light Armored Vehicle</p> <p>Warfighting laboratory</p> <p>Chemical Biological Incident Response Force</p>
Navy	<p>SH-2G Super Seasprite helicopter</p> <p>Mobile sensor platform</p> <p>Vehicle radar sensor surveillance control van</p> <p>Intercoastal boat</p> <p>Naval Mobile Construction Battalion equipment</p>

continued

ITEMS DISPLAYED AT FORMER PHILADELPHIA NAVAL BASE IN JULY 2000

Organization	Item displayed
Pennsylvania National Guard	M1A1 tank AH-1 Cobra helicopter CH-47 helicopter Mine-clearing line charge with M113 carrier HMMWV Mobile kitchen trailer HEMMT wrecker Water purification unit Command post carrier Small emplacement excavator WMD Civilian Support Team
U.S. Coast Guard	Port security boat (25-foot) Deep-water display Deployable pursuit boat (38-foot)